



February 8, 2000

Mr. J. Robert Giddings  
The University of Texas System  
Office of the General Counsel  
201 West Seventh Street  
Austin, Texas 78701-2981

OR2000-0469

Dear Mr. Giddings:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#131980.

The University of Texas Medical Branch at Galveston (the "university") received a request for six categories of information. You state that the university will release to the requestor responsive documents for categories 1, 2, 4, and 5. Categories 3 and 6 consist of information dealing with a proposed reorganization of certain teaching programs in the university's School of Allied Health Sciences and related budgetary recommendations. Specifically, category 3 requests:

A copy of information provided to the Institutional Budget Committee (IBC) during or in preparation for Dr. Christiansen's presentation to the IBC (on or about May 28, 1999), including forms and his powerpoint presentation.

Category 6 requests:

Item by item budget projections for the fiscal reductions proposed by Dr. Christiansen last summer for Year 01 and 02 of the opportunity target process.

You claim that the responsive documents for categories 3 and 6 are excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.111 of the Government Code excepts from disclosure “an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.” In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. An agency’s policymaking functions do not encompass internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. Open Records Decision No. 613 (1993); *see also Garland v. Dallas Morning News*, 43 Tex. Sup. Ct. J. 303 (Jan. 13, 2000) (personnel communications not relating to agency’s policymaking not excepted from public disclosure pursuant to section 552.111). An agency’s policymaking functions do include, however, administrative and personnel matters of broad scope that affect the governmental body’s policy mission. *See* Open Records Decision No. 631 (1995). In addition, section 552.111 does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. Open Records Decision No. 615. If, however, the factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make separation of the factual data impractical, that information may be withheld under section 552.111. Open Records Decision No. 313 (1982).

In this instance, we agree that the much of the requested information relates to the university’s policymaking. We have marked portions of the submitted documents that contain advice, opinion and recommendation relating to policymaking. The university may withhold these marked portions from public disclosure based on section 552.111. As the university has not established that section 552.111 applies to the remaining information, it must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Kay H. Hastings  
Assistant Attorney General  
Open Records Division

KHH/KSK/ljp

Ref: ID# 131980

Encl. Submitted documents

cc: Mr. David Chiriboga, Ph.D.  
Chair  
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301 University Boulevard  
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(w/o enclosures)